

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ROBIN MERKERSON,

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PLAINTIFF,

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CIVIL ACTION NUMBER:

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2:14-cv-01678-LSC

VS.

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**BIRMINGHAM HEALTH
CARE, INC.,**

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DEFENDANT.

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UNOPPOSED MOTION FOR LEAVE TO FILE UNDER SEAL

COMES NOW, the Defendant Birmingham Health Care, Inc. hereby moves this Honorable Court, for an Order permitting the Defendant to file the Settlement Agreement of the Parties under seal. Defendant has consulted with the Plaintiff and they do not object to this Motion. In support thereof, the Defendant states the following:

1. Defendant requests that the Settlement Agreement of the Parties be filed under seal because they are or refer to information and/or documents that the Defendant has designated as “Confidential Information” pursuant to the terms therein which have a strong propensity to misguide and mislead readers and the general public to believe that the Defendant: a) has committed an act of indiscretion or inappropriate conduct as it relates to the Federal Labor and Standards Act; and/or b) has willfully failed and/or

refused to follow Federal minimum wage requirements in violation of the FLSA; and/or c) has the financial ability to resolve similar claims in a similar manner.

2. Defendant requests that the Settlement Agreement of the Parties be filed under seal because the Defendant has been identified as a victim pursuant to the United States Department of Justice in a series of criminal cases whereby the resources, assets, grant funds and finances of the Defendant were embezzled, misappropriated and used as a part of a scheme to defraud by Defendants in amounts which exceed \$11M.¹ These ongoing proceedings have placed the Defendant in a vulnerable state of existence.

3. Defendant's agreement to resolve this matter through a Settlement Agreement with the Plaintiff is not an admission of guilt, fault or a belief that a trial on the merits of the Plaintiff's claim would likely or most likely render a verdict in favor of the Plaintiff.

4. Defendant's willingness and agreement to resolve this matter through entry of a Settlement Agreement is a direct result of the Defendant's financial exposure (as described in Paragraph 2) thereby compromising the Defendant's ability to defend the current litigation.

¹ Financial information gathered directly from the Plea Agreement in the United States of America v. Terri McGuire Mollica, Case number 2:14-cv-00329-KOB-HGD, in the United States District Court for the Northern District of Alabama, Southern Division.

WHEREFORE, PREMISES CONSIDERED, this Defendant respectfully submits this Motion for Order permitting it to file under seal:

- (1) Joint Motion for Court Approval and Entry of Settlement Agreement of the Parties and
- (2) Exhibit “1” – Settlement Agreement of the Parties

Respectfully Submitted,

/s/Vicki Bradley-Seals

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

David Arendall, Esq. and
Allen Arnold, Esq.
ARENDALL & ARNOLD
2018 Morris Ave, Third Floor
Birmingham, AL 35206

/s/Vicki Bradley-Seals
OF COUNSEL